

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JAMES E. SMITH, III,

Defendant.

8:08CR335

ORDER

This matter is before the court on the motion for an extension of time by defendant James E. Smith, III (Smith) (Filing No. 19). Smith seeks an extension in which to file pretrial motions in accordance with the progression order. Smith's counsel represents that Smith will file an affidavit wherein he consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Smith's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

Defendant Smith's motion for an extension of time (Filing No. 19) is granted. Smith is given until **on or before December 5, 2008**, in which to file pretrial motions pursuant to the progression order. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **November 12, 2008 and December 5, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 12th day of November, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge